

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*Track Seven  
The Montgomery County Board of County  
Commissioners et al. v. Cardinal Health, Inc.  
et al., Case No. 1:18-op-46326-DAP*

**MDL No. 2804  
Case No. 17-md-2804  
Judge Dan Aaron Polster**

**KROGER DEFENDANTS' NOTICE OF WITHDRAWAL OF MOTION FOR LEAVE  
TO FILE UNDER SEAL THEIR *DAUBERT* MOTION TO EXCLUDE PORTIONS OF  
ANNA LEMBKE'S, DAVID COURTWRIGHT'S AND JAMES RAFALSKI'S OPINIONS**

In response to the directive of the Court in the telephonic conference held between the parties and the Court on February 9, 2023, during which conference the PEC representative agreed the documents that are the subject of the Kroger Defendants' *Daubert* motion could be filed publicly, the Kroger Defendants hereby withdraw their motion filed February 8, 2023 (ECF No. 4879), for leave to file under seal their *Daubert* motion to Exclude Portions of Anna Lembke's, David Courtwright's and James Rafalski's Opinions, together with the proposed order attached as Exhibit 1. The Kroger Defendants will file unredacted copies of their motion and exhibits on the Court's public docket.

Dated: February 10, 2023.

Respectfully submitted,

**The Kroger Co., Kroger Limited  
Partnership I, Kroger Limited  
Partnership II,**

**By counsel,**

s/Ronda L. Harvey

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on February 10, 2023, the foregoing document was filed with the Clerk of Court using the CM/ECF system which will send notice to all counsel of record. Copies of this document may be obtained through the CM/ECF system.

*s/Ronda L. Harvey*  
Ronda L. Harvey, Esq. (WVSB 6326)